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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	S2 15 Cr. 95 (AJN)
- v. -	:	
	:	
ANDERSON ROSS,	:	
	:	
Defendant.	:	
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**PRELIMINARY STATEMENT**

The defendant in this case, Anderson Ross, is scheduled to be sentenced on May 19, 2017. The Government respectfully submits this memorandum in advance of that sentencing and in response to Ross’s sentencing memorandum, which requests a sentence of 144 months’ imprisonment, further reduced pursuant to U.S.S.G. § 5G1.3 to 107 months and 24 days. For the reasons that follow, the Government disagrees and requests that the Court impose a sentence of 188 months’ imprisonment after giving credit to Ross pursuant to Section 5G1.3. Ross was one of the most violent members of Big Money Bosses (“BMB” or the “Gang”) to be charged in this case—responsible for two attempted murders, during one of which the victim lost a kidney, as well as other acts of violence and drug dealing. He also has a disturbing criminal history, including an assault on a baby. For these reasons, even after giving credit to Ross pursuant to Section 5G1.3, a sentence of 188 months is still necessary to protect the community by incapacitating him, as well as to reflect the seriousness of the offense and Ross’s history and characteristics.

## **I. Procedural History**

On April 27, 2016, the S2 Indictment in this case was unsealed, charging 63 members and associates of BMB with: (1) racketeering conspiracy, in violation of Title 18, United States Code Section 1962; (2) narcotics conspiracy, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A), and 846; (3) narcotics distribution, in violation of Title 21, United States Code, Section 860; and/or (4) firearms discharge, in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

On November 21, 2016, Ross pled guilty to Count One of the S2 Indictment in this case, which charged him with racketeering conspiracy, in violation of Title 18, United States Code, Section 1962(d), and brandishing a firearm, in violation of Title 18, United States Code, Section 924(c)(1)(a)(ii). (PSR ¶ 7.)

## **II. Offense Conduct**

### **A. Background**

Beginning in December 2014, the New York City Police Department, the Drug Enforcement Administration, Homeland Security Investigations, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives conducted an investigation into two rival street gangs—BMB and the 2Fly YGz (“2Fly”)—that were operating in the Bronx, New York. The investigation revealed that since at least in or about 2007, up until in or about 2016, members of BMB and 2Fly were involved in a variety of racketeering acts, including murders, attempted murders, robberies, narcotics trafficking, bank fraud, and counterfeit currency offenses.

### **B. BMB**

The structure of BMB is described accurately in the PSR.

BMB was a subset of the “Young Bosses,” or “YBz” street gang, which operates throughout the New York City area. BMB—whose members also sometimes refer to themselves as the “Money Making Mafia” or “Triple M”—operated primarily on White Plains Road from 215th Street to 233rd Street in the Bronx, which is a long stretch of road under a subway train overpass that is hedged on each side by single-family homes and local commercial establishments. BMB’s narcotics trafficking activity was based principally in the vicinity of White Plains Road and 224th Street, an open-air drug spot that was referred to by gang members as the “Forts.” BMB members sold drugs and down White Plains Road, however, including at a spot on 219th Street and a house on 230th Street. BMB members sold crack cocaine, marijuana, and prescription pills, including Percocet pills (i.e., oxycodone). BMB members kept firearms at each of these White Plains Road locations. BMB members also operated a drug spot on Boston Road and Eastchester Road in the Bronx, which they refer to as “B Road.” BMB members who worked principally at the B Road spot typically refer to themselves as “Blamma.” Generally speaking, BMB members were encouraged to continue openly “jacking,” or proclaiming their membership in the gang, and many did so not only in person but also through social media websites such as Facebook.

In addition to its narcotics trafficking, BMB members and associates engaged in acts of violence, including shootings, stabbings, and gang assaults; these acts of violence protected the power of the gang, deterred attacks from rivals, and secured the gang’s territories and drug spots. Moreover, members who engaged in a sufficient amount of violence could earn a leadership position, which was referred to as a “Big Suit.” Members with “Big Suit” status were further subcategorized as, among other things, “Burberry Suits,” “Louis Suits,” “Gucci Suits,” “Ferragamo Suits,” and “Sean John Suits,” in order to signify their relative rank in the gang.

Among other things, a BMB member with “Big Suit” status had the authority to recruit other individuals into the gang. Two of the highest-ranking “Big Suits” in BMB were NICO BURRELL, a/k/a “Zico Nico,” and DOUGLAS MCLARTY, a/k/a “Q Don.” Both BURRELL and MCLARTY enhanced their status in the gang, in part, by committing attempted murders when they were each juveniles.

Members of BMB rose in status and rank within the gang not only by engaging in acts of violence, but also by maintaining their membership in the gang for a long period of time. Members who were loyal associates for a substantial amount of time are referred to as “Day One Niggas,” meaning that they have been associating with the gang since its earliest days. For example, in a posting on Facebook on July 7, 2013, BMB member RASHEID BUTLER, a/k/a “Rah,” wrote: “i love my Day1 Niggas that was here since this #TripleM Shit 1ST STARTED.” Similarly, BMB leader NICO BURRELL, a/k/a “Zico Nico,” discusses the “Day One” concept in a rap video posted on YouTube in December 2015 and entitled “Live From Gutter.” In the video, BURRELL raps, “No new niggas, only day one / I know they ain’t tellin’ if that day come,” after which another rapper repeats in the background, “no snitchin.”

BMB has, more generally, developed a gang norm against “snitchin,” or cooperating with law enforcement. For example, a BMB associate posted on Facebook on July 20, 2011, “Like QuDOn Said ‘No Snitchin Policy’”; the reference to “QuDOn” is a reference to MCLARTY, who is one of BMB’s leaders and whose alias is “Q Don.” BMB’s norm against “snitchin” was fostered through YouTube videos and social media postings, including postings in which gang members are praised for their refusals to cooperate with law enforcement in particular instances. The norm is also enforced through disparagement of and threats of violence against BMB members who are suspected of having violated the norm by cooperating. During

the course of this investigation, law enforcement learned of at least one instance in which a BMB member's home was fired upon because he made a statement to law enforcement about individuals with whom he had committed a robbery. During another instance, the child of a suspected cooperator in this case was threatened and spat upon in the street. The norm against cooperation facilitates the gang's criminal enterprise and is one of the reasons why members of BMB tend to commit their robberies and fraud offenses with other members of BMB.

Many of the specific acts of violence committed by BMB members related to its longstanding rivalry with 2Fly, which is based principally in the nearby Eastchester Gardens public housing development ("Eastchester Gardens"), but which also has members who live in the "Valley" area just east of BMB's "B Road" spot on Boston Road and Eastchester Road. BMB also has developed rivalries with other street gangs in the northern Bronx, including the "Young Shooter Gang," or "YSGz," which is based in the Edenwald public housing development ("Edenwald"), and the "Slut Gang," which is based in the Boston-Secor public housing development ("Boston-Secor"). In connection with these rivalries, BMB members developed a practice of "mobbing," meaning to gather in large groups and travel to the base of operations of a rival gang to engage in violence there. Members of rival gangs also sometimes went "mobbing" and attack or attempt to attack BMB at its bases of operations. Videos of "mobbing" incidents were posted on YouTube. The close proximity of the BMB, 2Fly, YSGz, and Slut Gang bases of operations—all of which are in or on the border of the New York City Police Department's 47th Precinct—contributed to the frequency of acts of violence.

In addition to acts of violence, members and associates of BMB promoted their gang and disparaged rival gang members by highlighting a distinguishing feature of BMB: it is not based in a housing development, as are its principal rivals 2Fly (in the Eastchester Gardens), YSGz (in

Edenwald), and the Slut Gang (in Boston-Secor). As noted above, BMB principally operated along White Plains Road, a long stretch of road hedged on each side by single-family homes and local commercial establishments. The name of the gang (“Big Money Bosses”) and the other allusions to wealth that the gang employs (for example, the brand-name clothing retailers used to identify leadership positions) all serve to underscore this difference. In addition, members and associates of BMB have publicly mocked the living conditions of the housing developments in which many of their rivals live. For example, in a Facebook post on July 10, 2014, BMB member DONQUE TYRELL, a/k/a “Polo Rell,” posted a photograph of a young child laying on a bed and covered with cockroaches, with the caption “MEANWHILE IN EDENWALD.” In connection with the posting of this picture, TYRELL wrote, “Dirty ass project,” followed by six smiley-face “emoticons.” Similarly, in a Facebook posting on May 28, 2014, BMB member MASHUD YODA, a/k/a “Papa Ola,” writes, “No Lie ECG [*i.e.*, the Eastchester Gardens] The Dirtiest PROJECTS UPTOWN . . . . Like OBAMA Said CHANGE But I Guess He forgot Bout ECG !!”

Consistent with this feature of BMB, members and associates of the gang engaged not only in narcotics distribution and robberies to enrich and distinguish its members from rivals, but also engaged in a variety of frauds, including bank fraud and counterfeit currency offenses. To perpetrate some of these fraud offenses, BMB members and associates often employed their girlfriends and female acquaintances.

### **C. Ross’s Role**

Ross was a member of BMB. Ross participated in the Gang’s acts of violence, including two attempted murders.

In particular, on November 15, 2011, in the vicinity of White Plains Road and Burke Avenue in the Bronx, after he and four others—including BMB members Tayquan Tucker and Donque Tyrell, a/k/a “Polo Rell”—surrounded and beat a member of the Slut Gang by punching, kicking, and stabbing him with a knife. The victim was taken to a hospital and survived, but suffered a puncture to his right forearm, lower back, and kidney, which had to be removed. During this attack, Ross beat the victim while he was stabbed. Similarly, on July 7, 2013, Ross and Tucker went to a party hosted by the YSGz gang near Edenwald; Ross shot a member of the YSGz.

Ross was the intended victim of a July 9, 2013 shooting at White Plains Road and 215th Street by Jafar Borden, also a BMB member. Borden’s home had been fired upon after he was perceived to have violated BMB’s norm against cooperating with law enforcement. Specifically, Borden made a statement to law enforcement about a robbery that he, Tucker, and Quayshawn Thomas (a BMB member later murdered) had committed on November 2, 2012. Borden later sought revenge. Although Ross was unharmed, two other individuals who were present were struck in the left leg and right thigh, respectively, but survived their injuries. When Borden opened fire, Ross ran and secured a firearm that was stashed at the location, and then began to chase Borden with it. Ross’s firearm was recovered, and Ross’s DNA was found on the gun. At the time of his arrest, Ross flailed his arms and legs in an effort to prevent law enforcement from arresting him, and he spontaneously stated to the arresting officers that he was only going to shoot the gun in the air to impress the women nearby, because “girls like when you shoot guns.” On March 6, 2015, as detailed below, Ross pled guilty in state court to the felony of criminal possession of a loaded firearm, was sentenced to 42 months’ imprisonment, was remanded, and is currently serving that sentence.



Ross also participated in BMB's narcotics trafficking activity—he sold marijuana with the Gang. For instance, on August 8, 2013, Ross and Mashud Yoda had a Facebook conversation in which Yoda instructed Ross to “cop the pack big money give it to u for the low.” Ross responded, “Explain to me wats in that pack.” Yoda wrote, “21 bags for u 160.” Ross replied, “lol naa i can cop a half a O for 180 for all lat.” On May 7, 2014, Ross wrote, “Dope on deck I’m uptown man holla !!!” In this message, Ross is advertising marijuana he has available for sale. The next day, on May 8, 2014, Ross wrote on Facebook, “I’m baggin up dope, Cuz I aon’t got no choice.”

In addition to drug dealing, Ross discussed acts of violence on Facebook. For instance, Ross also had a Facebook conversation with Yoda on June 24, 2013, in which the two men discussed a possible act of violence. Ross wrote, “you u wanna pull up or Suttin . . . Cuzz it’s bitches out here.” Yoda responded, “idk yet type busy but u spoke to ZHICO OR QUDON?” ROSS wrote, “I spoke to zico dis morning why.” Yoda wrote, “What he said about the situation?” Ross did not respond, and Yoda wrote some minutes afterwards that he was arriving at Ross location, where presumably they continued their conversation in person. In this conversation, Ross and Yoda are discussing possible plans to commit an act of violence, and that they are conferring with BMB leaders Burrell and McLarty for instructions on how to proceed.

Ross also extolled the Gang generally on his Facebook account. The email address associated with Ross’s Facebook account is “boogyboo\_bmb@yahoo.com.” Moreover, Ross has made gang-related postings on Facebook. For example, on April 1, 2014—the birthday of BMB leader McLarty, Ross posted a photograph of himself and McLarty, and wrote the message, “Goodmorning & happy bday to 1 of da big BMB’Z Qudon Boss !!! Via boogy boo.” On April 11, 2011, Ross exchanged Facebook messages with Yoda, who at one point wrote, “im big suit

juu heard do ur homework.” On August 9, 2013, Ross wrote to Yoda on Facebook that “me chicken and duke run shit out here now,” and then clarified, “Until zico cum home in 3months.” “Chicken” is Tucker; “Duke” is Robert Haughton; and “Zico” is Burrell, who was in state prison at the time Ross wrote his message, and who was released from prison in August 2014.

Ross’s close connection with BMB is further demonstrated by his appearance in a rap video entitled “BMB Pound Cake Freestyle,” posted on March 14, 2014. Ross is one of three rappers in the video, together with Tucker and Dante Plummer. Various other BMB members, including members of BMB leadership, appear in the video. At one point in the video, Ross raps, “Big Head died / beef never gon’ stop.” The reference to “Big Head” is a reference to Antonio Lyles, a/k/a “Big Head,” a BMB member who had been murdered by YSGz seven months earlier; and the statement that “beef never gon’ stop” is a reference to the ongoing feud between BMB and the YSGz, which escalated as a result of Lyles’s murder.

### **III. The Defendant’s Criminal History**

Ross has a serious criminal history, which includes additional acts of violence—such as an assault on a baby, as well as crimes committed while on probation.

On November 2, 2012, Ross was adjudicated a youthful offender and sentenced to a conditional discharge after he punched a female victim in the face while others swung a knife at the victim and the third threatened to get a gun and shoot the victim. (PSR ¶ 66.) While Ross was again attempting to punch the victim, he missed and struck the victim’s one-month old baby. (PSR ¶ 66.) That same day, Ross was adjudicated a youthful offender in connection with the stabbing described above, which resulted in 5 years of probation. (PSR ¶ 67.)

On July 22, 2013, Ross pled guilty to disorderly conduct in Pennsylvania in connection with an arrest for assault, which was committed while Ross was on probation. (PSR ¶ 68.)

On March 6, 2015, Ross was sentenced to 42 months' imprisonment in connection with the Jafar Borden incident, described above, to run concurrently with a separate crime—namely, Ross's arrest with a loaded .25 firearm with a defaced serial number. (PSR ¶ 70.) Both of these crimes were also committed while Ross was on probation.

#### **IV. The PSR and Guidelines Calculation**

The PSR and the Plea Agreement differ as to the correct Guidelines range in this case, largely arising from the two foregoing juvenile adjudications, about which counsel was not aware. The Government is prepared to address this discrepancy upon inquiry of the Court. *See United States v. Kilpatrick*, -- Fed. App'x --, 2016 WL 6518802, at \*3 (2d Cir. Nov. 1, 2016) (holding that Government breached plea agreement by bringing an error in the parties' Guidelines calculation to the attention of the Court). In sum, the PSR calculates the range as 188 to 235 months' imprisonment, while the Plea Agreement calculated the range as 151 to 188 months' imprisonment. There is no disagreement as to the offense level.

#### **3553(a) ARGUMENT**

Ross needs to be incapacitated. For the reasons that follow, a sentence of 188 months' imprisonment—after crediting Ross for time served on relevant conduct, to run concurrently with his undischarged term of imprisonment—is necessary to meet the statutory sentencing factors, in particular to reflect the seriousness of the offense and Ross's history and characteristics.

There are a number of extremely violent defendants in this case—defendants who committed attempted murder or murder, have serious criminal histories, and need to be incapacitated in order to protect the public. Ross is one of these defendants. Not only was he a member of BMB, he participated in two attempted murders—one so brutal that the victim's

kidney needed to be removed. He has been caught with loaded guns more than once—and on one occasion, he was chasing his victim in the street. He extolled the Gang on Facebook and in rap videos. He sold drugs. He punched an infant. He is a menace to civilized society.

There is nothing mitigating in Ross’s background warranting a downward variance under the circumstances of this case. To be sure, he lost his mother at a young age and was raised by his grandmother. While this is tragic, it is far outweighed by the need for a severe sentence in this case for the reasons discussed above. Moreover, with the significant exception of his mother’s death, there was nothing unusually difficult in Ross’s circumstances. According to the PSR, he disclaimed any abuse or neglect growing up. He has a close relationship with his brother. He has an “extensive network of positive influences in his life,” which include both family and friends. (PSR ¶ 84.) He lived in a three bedroom home that was neat and in decent condition. Even with all of this, Ross never pursued his education or got a real job, never tried to contribute to society in any positive way. Instead, he joined BMB and wreaked havoc on the streets of his community, nearly killing at least two people.

The Government agrees that Ross should get credit for time already served on relevant conduct—namely, as defense counsel accurately calculates, 36 months and 6 days of credit. The Government further agrees that his sentence in this case should run concurrently to his undischarged term of imprisonment. However, even after such credit is accorded, Ross should still receive a sentence of 188 months’ imprisonment in order to protect the public.

**CONCLUSION**

For the foregoing reasons, the Government respectfully requests that the Court impose a sentence of 188 months' imprisonment.

Dated: New York, New York  
May 16, 2017

Respectfully submitted,

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